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STATE OF MAINE  
MAINE PUBLIC UTILITIES COMMISSION

March 26, 1985

CONSUMER ASSISTANCE DIVISION BULLETIN 85-1

TO: All Maine Utilities

SUBJECT: Administrative Court Action Against A Utility.

Title 35, Section 314 authorizes the Commission to file a complaint in Administrative Court against any utility that willfully or recklessly violates Chapters 81, 86, or 87 of the Commission's Rules. This bulletin serves to notify you of the standard that the Commission will apply in determining whether a violation of Commission Rules has been willful or reckless, and it gives examples of cases which demonstrate willful or reckless violation of Chapter 81 by a utility.

Willful or reckless violation of Commission Rules occurs when a utility, regardless of intent to violate the rules, intentionally performs an act so unreasonable that it knows or should know that it is highly probable that violation of the rules will occur.

Example #1. The utility sent a customer a fourteen day disconnect notice informing the customer that service would be disconnected on or after September 12 unless payment had been received or a payment arrangement entered into. The utility disconnected the customer's service on September 11.

This utility willfully or recklessly violated Chapter 81, Sections 4(A) and 7(A). Although the utility did not intend specifically to violate Chapter 81, it did intend to disconnect the customer's service on September 11. Company personnel were instructed to accomplish the disconnection on that date and they did so. Because the same personnel or the persons giving the instructions knew or should have known that the authorized disconnect date was September 12, the utility must be deemed to have known or should have known that the disconnection would be in violation of Section 4(A), which requires a fourteen day notice prior to disconnection, and Section 7(A), which specifies that service may be disconnected for nonpayment only on the day specified in the Notice or within ten (10) days thereafter.

Example #2. The utility sent the customer a three day disconnect notice informing the customer that its service would be disconnected for nonpayment unless payment had been received by November 7. The customer mailed the check to the utility on November 3. The utility processed the check and deposited the customer's check with a bank on November 6. On November 7 the utility disconnected the customer's service for nonpayment.

This utility willfully or recklessly violated Sections 2(A)(1) and 3(A)(1) of Chapter 81. There is no evidence that the utility intended specifically to violate the Commission's Rules. But, the Company did intend to disconnect the customer after the customer had paid its bill. Company personnel were instructed to disconnect service, and the customer's service was in fact disconnected a day after payment had been deposited with a bank. Disconnection after payment has been received is an act so unreasonable that the utility must be deemed to have known, or should have known, that it was highly probable that the disconnection would be in violation of Chapter 81.

If you have any questions about this Bulletin please contact the Consumer Assistance Division at 289-3831.